



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 10, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

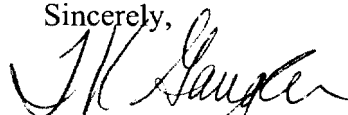
Re: **Notice of Ex Parte Presentation** in CC Docket No. 99-200,
In the Matter of Number Resource Optimization

Dear Secretary Salas,

Pursuant to Section 1.1206(a) of the Commission's Rules, 47 C.F.R. 1.1206(a), this letter is to provide notice of *ex parte* meetings by Teresa Gaugler of the Association for Local Telecommunications Services, Daniel Gonos of Winstar, and Danny Adams of Kelley Drye & Warren, LLP, in the above-referenced proceeding on Friday March 10, 2000. The parties met separately with Jordan Goldstein, Legal Advisor to Commissioner Ness, and Rebecca Beynon, Legal Advisor to Commissioner Furchtgott-Roth. During the meetings, the parties discussed a variety of issues related to the upcoming order in this proceeding. The substance of the discussion is set forth in the attached documents. In addition, the attached letters were provided to the Chairman and to each of the Commissioners.

Should you have any questions about this matter, please call me at 202-969-2587. An original and one copy of this letter are being submitted to you for inclusion in the public record.

Sincerely,



Teresa K. Gaugler

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Winstar
Presentation to FCC Commissioners' Staff
3/10/2000

Discussions with Commission staff have shown a propensity on the part of the staff to grant a great amount of latitude to the states in the administration of numbering resources. Winstar certainly supports the right of the states to exercise local jurisdiction in some areas of telephone number administration. We support, for example, the grant of authority to the states to do Area Code Relief. We also support the right of the states to decide at what point Pooling may be appropriate for their jurisdictions.

At the same time, Winstar is concerned that states have moved beyond policy initiatives to technical initiatives that are outside their areas of expertise and potentially harmful to end users, Service Providers, and ultimately the North American Numbering Plan itself. Winstar offers the following examples of states who have exceeded their authority to our detriment, that of our customers, and in some cases the detriment of local telecommunications competition.

- Winstar was originally scheduled to enter the Pittsburgh market in mid 1997. Because the Pennsylvania PUC insisted on an Overlay with 7 digit Home NPA dialing, relief in the 412 area code was delayed for nearly two years. The NPA was in a state of exhaust for nearly 18 months, and the pent up demand for codes once it was relieved have delayed our entry until June of this year. As a result of this mismanagement, the 412 and 724 NPAs are once again in Jeopardy with relief via a properly deployed overlay scheduled for 2001.
- In a similar fashion, the New York Department of Public Service delayed NPA Relief in the 212 NPA, first to obtain a waiver of the 10 Digit Overlay dialing requirement, then to explore the implementation of Number Pooling. The result was an exhaust situation in 212 that spanned more than 18 months. Winstar exhausted its 5 212 NXX codes in September, 1999 and has been unable to add new customers, except by LNP since that time. Our new NXX in the 646 NPA will not be ready until later this week, a period of 6 months where Winstar has been competitively disadvantaged compared to the incumbent.
- A comparable scenario is unfolding now in Illinois. Although Winstar is not in danger of imminent exhaust of its Chicago resources at this time, other circumstances are disturbingly similar. The Illinois Commerce Commission applied for a waiver of the 10 Digit Overlay Dialing Rule. The waiver has now been granted on a "temporary" basis under terms almost identical to New York. In the case of New York, the waiver is now, for practical purposes, permanent. Both of these waivers are based on facts that are shallow, at best. Furthermore, the waivers are directly contrary to industry guidelines and the FCC's own rules.
- The California Public Utility Commission has requested and received broad powers to manage the numbering resource in California, but in addition has, with impunity, exceeded this authority, if not with the consent, certainly without the opposition of the CCB Staff. Among the measures instituted by the CPUC is the indefinite halt of all NPA Relief activity anywhere in the State of California, sequential number assignment that does not even allow for exemptions related to customer equipment limitations, the imposition of Pooling on an NPA by NPA basis rather than an MSA by MSA basis, the restriction of NXX Code activation in the 310 NPA to 2 per month, the imposition of Pooling in a time frame that even Neustar now admits cannot be met, and the use of rationing as an alternative to NPA Relief in clear violation of FCC rules. These abuses of authority will result in the exhaust of Winstar's resources in the 310 NPA by late March or early April with no prospect for timely relief.

In addition to the above, the CPUC, on its own initiative and in violation of the authority given it by FCC has adopted the following with regard to Pooling in 310:

- The Pooling Administrator may only maintain a 3 month inventory of Thousands Blocks.
- The Pooling Administrator may only issue 25% of that inventory in any 3 month period without a special exception from the CPUC.

- The Pooling Administrator may only open a new NXX Code with the approval of the CPUC.
- Thousands Blocks would be administered in a manner that is contrary to FCC and Industry Guidelines.

Although the Pooling issues apply only to the 310 at this time, the CPUC has openly proclaimed its intent to impose the same standards on all NPAs in California. To that end, they have indefinitely halted NPA Relief in San Diego that had already started. The result is the needless expenditure of money for an NPA Relief plan that may not move forward.

This move will restrict competition to such a degree in California as to make it impractical for any competitor who does not currently have numbering resources to enter the state and for any competitor whose resources are substantially depleted to remain. The only long term survivors who could possibly exist in this environment are the ILECs.

In a more global sense, we have become concerned about the inconsistent manner in which the FCC is delegating authority. On the one hand, it is quite clear that the FCC has delegated a great deal of authority to the California PUC, and by inaction, demonstrated that the FCC has no concern if California exceeds this grant of authority. On the other hand, the Commission has micromanaged the NPA Relief process with regard to the 810 Area Code (and by inference 4 other area codes) in Michigan because the Michigan Public Service Commission lacks or chooses not to exercise authority and instead delegates it to the industry. The FCC has made this determination even though the process in Michigan has worked well through 5 rounds of NPA Relief since its inception in 1992. Even in the case of 810, the protest which led to the FCC's tentative conclusion comes from one city's Chamber of Commerce. While Flint Michigan is a major Michigan city, its population is a tiny fraction of and not representative of the 810 NPA. Yet the FCC has allowed them to stall the process.

What we see lacking, and what we encourage the commissioners to ensure in the order is consistency. If Service Providers are forced to conform to 50 or more different standards, ultimately end users will suffer because they will be unable to travel from one part of the country to another and know how to operate the telephone service there. In addition, Service Providers will be required to deploy custom software in each different jurisdiction, the expense of which will ultimately be borne by the consumer and which, in the extreme case will jeopardize universal service.

We also feel strongly that many of the issues that have arisen stem from a desire on the part of the states to avoid mandatory 10 Digit Dialing. In virtually every case, the argument against 10 Digit Dialing is one of convenience. The same argument was advanced in 1947 when the North American Numbering Plan was expanded from 5 digits to 7. Nonetheless, the population adjusted. In areas where mandatory 10 Digit Dialing has been implemented, opposition has been insignificant to non existent, and beyond some initial training issues, the transition has gone smoothly. At NANP expansion, 10 Digit Dialing will become the standard in any event. The FCC would eliminate much of the controversy by mandating 10 Digit dialing within 30 months from the date of the order.

In essence, the order needs to be flexible, consistent, and technically sound. If these criteria are met, the needs of the consumer and competition will both be served.

Winstar

Number Optimization and Policies

Russell Merbeth

Dan Gonos

Rose Breidenbaugh

Danny Adams

Todd Daubert -

Federal Communications Commission
February 3, 2000

The Importance of Numbering Optimization

- ♦ **Numbers are the “fuel” of competition.**
- ♦ **The 1996 Act was designed to foster competition and eliminate State practices that keep CLECs from entering local markets.**
- ♦ **Number shortages caused by inconsistent allocation or rationing prevent CLECs from entering local markets, serving new consumers, or introducing new and innovative services.**

The Importance of Numbering Optimization

(Continued)

- ♦ **Numbering policies in many states, as well as inconsistency among state policies, are causing number shortages and harming competition.**
- ♦ **Unless the FCC acts now to stop number rationing and inconsistent allocation practices, competition will be stifled and the FCC's policies, and the 1996 Act itself, will be undermined.**
- ♦ **Fair and impartial access to the numbering resource as stipulated in Section 251 of the '96 Telecom Act is compromised by state activities.**
- ♦ **Without adequate numbering resources, the FCC's other local competition initiatives, including UNEs, Section 271, and Building Access Rules, will be rendered moot.**

A Uniform, National Numbering Policy is Crucial for Competition

- ♦ **The FCC must ensure that numbering standards are not balkanized by various conflicting numbering policies adopted by individual states.**
- ♦ **The FCC must prevent states from taking any actions that prevent carriers from receiving adequate numbering resources.**
- ♦ **The FCC must enforce federal numbering policy, and immediately preempt conflicting state policies.**
- ♦ **The FCC must ensure that the costs for any particular numbering optimization measure do not outweigh the associated benefits.**
- ♦ **The FCC must reaffirm that number rationing is evidence of failed numbering administration, and take steps to prevent rationing, even on a temporary basis.**

Number Rationing Will Have Serious Consequences

- ♦ **New carriers will be excluded from the market due to lack of numbers. This stifles competition that fosters lower prices and improved services.**
- ♦ **Customers may not be able to order new services, because existing carriers will not have any numbers to fill the orders.**
- ♦ **Existing carriers, especially recent entrants, may not introduce new and innovative types of services.**
- ♦ **Internet-based businesses that utilize numbers will not locate in the rationing area, stifling economic growth and innovation and the associated benefits to citizens.**

Many State Actions Adopt Harmful Measures To Preserve 7-Digit Dialing

- ♦ **Many State decisions are based not on the desire to optimize number utilization, but on the desire to maintain 7-digit dialing.**
- ♦ **Efforts to delay ten-digit dialing are futile and harmful.**
 - ♦ **Ten-digit dialing already exists on a *de facto* basis in many areas experiencing number exhaust (e.g. Chicago, Dallas, Detroit, New York).**
 - ♦ **Deployment of mandatory ten-digit dialing in other markets has not been controversial beyond a few initial and isolated complaints.**

Artificially Maintaining 7-Digit Dialing is Costly and Inefficient

- ♦ **Seven-digit dialing, even on a permissive basis, causes too much customer confusion when overlay area codes are implemented.**
 - ♦ **Customers would have to dial ten digits for some neighboring locations and seven digits for others, even within the same building.**
 - ♦ **PBX systems with numbers from both area codes cannot support seven-digit dialing.**
 - ♦ **New software to cope with permissive seven-digit dialing where overlay area codes have been implemented would take years to develop and would be costly to deploy.**
 - ♦ **Some equipment would become prematurely obsolete.**
- ♦ **Overlay area codes are more efficient than geographic splits.**
 - ♦ **Geographic splits that are too small (2000 square miles or less) are more confusing than overlays and cause artificial cultural divisions.**

Examples of States With Unacceptable Numbering Policies: Ohio

- **The FCC granted Ohio temporary authority to impose special measures.**
- **In response, Ohio ordered that reporting be done at the 100 block level.**
- **Ohio requires applications for NXXs to be approved by the PUCO before they can be submitted to NANPA. This is unprecedented and not within the authority delegated.**
- **Ohio requires any request for non-sequential telephone number assignment to be submitted to the Ohio PUC for approval. This could delay major installations requiring consecutive blocks of numbers for months. The incumbents, on the other hand, can't be held to any such standard because their assignments are scattered randomly.**

Examples of States With Unacceptable Numbering Policies: California

- ♦ **The FCC granted California temporary authority to impose special measures, e.g., pooling, on an MSA by MSA basis.**
- ♦ **In response, California applied special measures throughout the state without regard to limits or delegated authority or industry objection.**
- ♦ **California has imposed an unrealistic time frame for number pooling. The time line is based on vendor representations that are now being modified.**
- ♦ **California has imposed number rationing in a manner that is well beyond the limits of the authority the Commission granted. The California policy actually requires Code exhaust before relief in direct violation of industry guidelines.**
- ♦ **California has delayed area code relief that has already been agreed to by industry and previously ordered by the CPUC in contradiction to the FCC order specifying that the authority granted is not meant to replace area code relief.**

Three Guiding Principles to Judge Numbering Policies

- ♦ **What is the effect on consumers?**
- ♦ **What is the effect on competition?**
- ♦ **What is the cost if the number optimization measure fails to achieve the desired result?**

Number Pooling Is Not a Panacea

- ♦ **Number pooling is expensive.**
- ♦ **Number pooling is untested in area codes not near exhaust.**
- ♦ **Number Pooling does not substantially extend the lives of area codes in advanced stages of exhaust, as 847 in Illinois and 212 in New York demonstrate.**
- ♦ **Number pooling might not be effective in any NPA.**
- ♦ **Number pooling does not apply to all industry segments.**
- ♦ **Number pooling does not apply to all technologies.**
- ♦ **The contamination level set by the industry is too low.**

Number Rationing Is Never Acceptable

- ◆ **Number rationing is not NPA relief.**
- ◆ **Number rationing blocks new carriers from entering the market.**
- ◆ **Number rationing prevents carriers from introducing new services.**
- ◆ **Number rationing limits consumer options.**
- ◆ **Number rationing results in higher prices and less innovation.**

Sequential Number Assignment Is Not A Solution

- ♦ **Customer requests for specific numbers cannot be honored.**
- ♦ **Some types of CPE cannot support sequential number assignment.**
- ♦ **Incumbents cannot be held to the same standard as new entrants because they have not historically practiced sequential number assignment.**

Steps To Be Taken Immediately

- ♦ **Take all steps necessary to ensure adequate numbering resources so that all forms of number rationing can be abolished as soon as possible.**
- ♦ **Revoke temporary authority of states that are violating FCC orders.**
- ♦ **Require States to prepare now for implementation of additional overlay area codes in the future in case number pooling trials do not delay numbering exhaust.**
- ♦ **Prevent states from adopting harmful and anti-competitive measures simply to preserve 7-digit dialing.**
- ♦ **Direct the industry to proceed expeditiously with plans for NANP Expansion even while preserving the resource for as long as practical.**



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

March 10, 2000

Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: In the Matter of Number Resource Optimization
CC Docket No. 99-200**

Dear Chairman Kennard:

The Association for Local Telecommunications Services ("ALTS") eagerly awaits the Commission's forthcoming decision in the above referenced proceeding. As new entrant local exchange carriers, ALTS members are substantially and adversely affected by the recent epidemic of area code exhaust, jeopardy, and lottery situations occurring throughout the nation. The need for clear, uniform federal management of number administration and optimization measures is more important now than ever, if local exchange competition is to flourish.

ALTS members have been acutely concerned by the recent trend of allowing piece meal management of number administration matters by states. The results for Competitive Local Exchange Carriers ("CLECs") have been particularly damaging, because CLECs tend to have much smaller number inventories and internal number administration resources than their larger competitors. They are much less able to withstand lengthy delays in implementing area code relief, or to comply with administration guidelines that vary from state to state. In many cases, the unilateral actions by states, either with or without express delegation of authority by the FCC, have resulted in the inability of CLECs to enter new markets, or serve new customers in existing markets.

ALTS urges the Commissioners to consider the examples described below, which demonstrate that fragmented decisions by states are already having adverse effects on competitive entry. ALTS urges the Commission in its order to reiterate the responsibilities of states in implementing necessary area code relief, and *not* allow development of state-specific thousands block pooling or number administration guidelines.



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- ◆ In Arizona, an ALTS member submitted an application for Central Office codes on 1/12/00. Although the application met all national requirements for code assignment, the application was suspended. Without informing the industry, the Arizona Corporation Commission ("ACC") had directed the NANPA to suspend all applications of five or more Central Office codes, and submit them instead to the ACC for approval or denial. Had the industry guidelines been followed, the application normally would have been approved within 10 days, but as a result of the ACC action, the application still has not been acted upon two months later. At this time, the service provider has no way to know if and when it will be acted upon, nor what guidelines will be used to approve or deny its request. As a result, the service provider has been unable to provide the service requested by its customer.
- ◆ The New York Department of Public Service delayed NPA relief in the 212 NPA, first to obtain a waiver of the 10-digit overlay dialing requirement, then to explore the implementation of number pooling. The result was an exhaust situation in 212 that spanned more than 18 months. One ALTS member reports that all of its NXXs in the 212 NPA were exhausted by September 1999, and it has been unable to add new customers, except by LNP, since that time. The provider's new NXX in the 646 NPA will not be ready until late this week, leaving a period of 6 months when it has been competitively disadvantaged relative to competitors with larger number inventories.
- ◆ In California, numerous ALTS members have been blocked from serving customers in existing markets, or entering new markets, because of the California Public Utility Commission's ("CPUC's") decision to suspend all area code relief activity pending the review and implementation of number conservation measures. For example, one ALTS member reports being shut out from entering new rate centers in the Los Angeles area 310 NPA (Gardena, Culver City, Hawthorne, Lomita, Malibu, Redondo, San Pedro, and Avalon rate centers) and 714 NPA (Cypress, Garden Grove, Silverado, and Westminster rate centers). Another member reports that it expects its resources to be completely depleted within the next month. There is still no prospect for relief in these or other California area codes while the CPUC pursues its experiments.
- ◆ Other measures instituted by the CPUC include: sequential number assignment that does not even allow for exemptions related to customer equipment limitations; the restriction of NXX Code activation in the 310 NPA to two per month; the imposition of pooling in a time frame that even Neustar now admits cannot be met; and the use of rationing as an alternative to NPA relief (in direct violation of FCC rules).



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

- ♦ Variations in state-determined pooling implementation guidelines (i.e., guidelines that vary from the NANC-approved industry guidelines) are adversely impacting ALTS members. For example, the CPUC recently established a 30-day residential and 90-day business aging rule for pooled numbers in California. ALTS members have found their current number administration systems do not have the flexibility to support a difference in aging requirements for residential versus business customers, or variations between states, or between ported, non-ported, pooled, and non-pooled numbers. The lack of uniformity will require that manual processes be created to replace automated systems.

The concern carriers have expressed in comments in this and related proceedings -- about the impact on commerce and competition if state-specific pooling and number administration management is allowed to continue and increase -- is not just a theoretical prediction. The impacts are very real and they are happening today. The problems of number utilization are not local in nature; they are inherent to the national number administration system, and therefore cannot be resolved as state or local issues. ALTS urges the Commission to reiterate its commitment to uniform, national pooling and number administration.

Sincerely,

Teresa K. Gaugler
Attorney for ALTS

Cc: Dorothy Attwood